

AMENDED IN SENATE MAY 1, 2001

AMENDED IN SENATE APRIL 19, 2001

SENATE BILL

No. 1221

**Introduced by Senators ~~Romero, Johannessen, Karnette,~~
~~Margett, Scott, and Speier~~ Senator Romero**
**(Coauthors: Senators Johannessen, Karnette, Margett, Scott, and
Speier)**

(Coauthors: Assembly Members Aroner, Cohn, Liu, Richman,
Strom-Martin, and Washington)

March 19, 2001

An act to amend Sections 3600 and 4320 of, and to add Section 4325
to, the Family Code, relating to spousal support.

LEGISLATIVE COUNSEL'S DIGEST

SB 1221, as amended, Romero. Spousal support: domestic
violence.

Existing law governs the award of spousal support. Existing law sets
forth criteria to be considered in determining spousal support.

This bill would provide that in any proceeding for dissolution of
marriage brought within 2 years before or after a criminal conviction
for an act of domestic violence perpetrated by one spouse against the
other spouse, there shall be a rebuttable presumption *affecting the
burden of proof* that any award of temporary or permanent spousal
support to the abusive spouse otherwise awardable pursuant to the
standards of the provisions governing the award of spousal support
should be reduced by at least 20%. The bill would authorize the court
to consider a convicted spouse's history as a victim of domestic violence
as a condition for rebutting the presumption. The bill would also require

the court to consider a reduction of the award of spousal support to a supported spouse ~~who has~~ *if the court finds documented evidence of a history of domestic violence against the supporting spouse by the supported spouse.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 3600 of the Family Code is amended to
2 read:

3 3600. During the pendency of any proceeding for dissolution
4 of marriage or for legal separation of the parties or under Division
5 8 (commencing with Section 3000) (custody of children) or in any
6 proceeding where there is at issue the support of a minor child or
7 a child for whom support is authorized under Section 3901 or
8 3910, the court may order (a) the husband or wife to pay any
9 amount that is necessary for the support of the wife or husband,
10 unless the supported spouse has been convicted of domestic
11 violence, in which case any award shall be in accordance with
12 Section 4325, or (b) either or both parents to pay any amount
13 necessary for the support of the child, as the case may be.

14 SEC. 2. Section 4320 of the Family Code is amended to read:
15 4320. In ordering spousal support under this part, the court
16 shall consider all of the following circumstances:

17 (a) The extent to which the earning capacity of each party is
18 sufficient to maintain the standard of living established during the
19 marriage, taking into account all of the following:

20 (1) The marketable skills of the supported party; the job market
21 for those skills; the time and expenses required for the supported
22 party to acquire the appropriate education or training to develop
23 those skills; and the possible need for retraining or education to
24 acquire other, more marketable skills or employment.

25 (2) The extent to which the supported party's present or future
26 earning capacity is impaired by periods of unemployment that
27 were incurred during the marriage to permit the supported party to
28 devote time to domestic duties.

29 (b) The extent to which the supported party contributed to the
30 attainment of an education, training, a career position, or a license
31 by the supporting party.

1 (c) The ability to pay of the supporting party *to pay spousal*
2 *support*, taking into account the supporting party's earning
3 capacity, earned and unearned income, assets, and standard of
4 living.

5 (d) The needs of each party based on the standard of living
6 established during the marriage.

7 (e) The obligations and assets, including the separate property,
8 of each party.

9 (f) The duration of the marriage.

10 (g) The ability of the supported party to engage in gainful
11 employment without unduly interfering with the interests of
12 dependent children in the custody of the party.

13 (h) The age and health of the parties, including, but not limited
14 to, consideration of emotional distress resulting from domestic
15 violence perpetrated against the supported party by the supporting
16 party where the court finds documented evidence of a history of
17 domestic violence, as defined in Section 6211, against the
18 supported party by the supporting party.

19 (i) The immediate and specific tax consequences to each party.

20 (j) The balance of the hardships to each party.

21 (k) The goal that the supported party shall be self-supporting
22 within a reasonable period of time. Except in the case of a marriage
23 of long duration as described in Section 4336, a "reasonable
24 period of time" for purposes of this section generally shall be
25 one-half the length of the marriage. However, nothing in this
26 section is intended to limit the court's discretion to order support
27 for a greater or lesser length of time, based on any of the other
28 factors listed in this section, Section 4336, and the circumstances
29 of the parties.

30 (l) The criminal conviction of an abusive spouse and a
31 reduction of the award in accordance with Section 4325.

32 (m) Any other factors the court determines are just and
33 equitable.

34 SEC. 3. Section 4325 is added to the Family Code, to read:

35 4325. (a) In any proceeding for dissolution of marriage
36 brought within two years before or after a criminal conviction for
37 an act of domestic violence perpetrated by one spouse against the
38 other spouse, there shall be a rebuttable presumption *affecting the*
39 *burden of proof* that any award of temporary or permanent spousal
40 support to the abusive spouse otherwise awardable pursuant to the

1 standards of this part should be reduced by at least 20 percent. The
2 court may consider a convicted spouse's history as a victim of
3 domestic violence as a condition for rebutting the presumption.

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5 (b) *The* court shall also consider a reduction in the award of
6 spousal support to a supported spouse ~~who has~~ *if the court finds*
7 *documented evidence of* a history of domestic violence against the
8 supporting spouse *by the supported spouse*.

